

1 Ambika Kumar, WSBA #38237
Sara A. Fairchild, WSBA #54419
2 Davis Wright Tremaine LLP
920 Fifth Avenue, Suite 3300
3 Seattle, WA 98104-1610
Telephone: 206.622.3150
4 Facsimile: 206.757.7700

5
6
7
8 IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON
9 AT SPOKANE

10 UNITED FOOD AND COMMERCIAL
WORKERS UNION, LOCAL 3000, a
non-profit corporation, UNITED FOOD
11 AND COMMERCIAL WORKERS
UNION, LOCAL 1439, a non-profit
12 corporation, UNITED FOOD AND
COMMERCIAL WORKERS UNION,
13 LOCAL 21, a non-profit corporation,
AND FAYE IRENE GUENTHER,
14 an individual,

15 Plaintiffs,

16 v.

17 JOSEPH H. EMMONS, individually,
AND OSPREY FIELD CONSULTING
18 LLC, a limited liability company,

19 Defendants.

No. 2:22-cv-00272-TOR

**STIPULATED MOTION TO
STAY DISCOVERY**

**3/20/2023
WITHOUT ORAL
ARGUMENT**

1 The parties stipulate and respectfully move the Court to stay all discovery,
2 including the exchange of Rule 26(a)(1) initial disclosures, and to lift the stay only
3 if the Court decides Plaintiffs have pleaded a claim upon which relief can be granted
4 under Rule 12 or converts Defendants' Rule 12(b)(6) Motion to Dismiss Complaint,
5 Dkt. 9, to a Rule 56 motion for summary judgment. In support of this stipulated
6 motion, the parties state as follows:

8 1. Plaintiffs filed the Complaint in the Superior Court of the State of
9 Washington for Spokane County on July 25, 2022, asserting claims for defamation
10 and false light invasion of privacy. Dkt. 1-2.

11 2. On September 2, 2022, Plaintiffs served Defendants with written
12 discovery requests.

13 3. On September 29, 2022, Defendants filed a special motion under
14 Washington's Uniform Public Expression and Protection Act, RCW 4.105.010-.903
15 ("UPEPA"), asking the state court to dismiss the Complaint and award Defendants'
16 attorneys' fees and costs. Dkt. 2-1 at 33-59.

18 4. On November 9, 2022, based on information Plaintiffs provided in an
19 October 24, 2022, draft status report, Dkt. 1-1, Defendants timely removed the case
20 to this Court. Dkt. 1.

21 5. On January 30, 2023, to facilitate the efficient resolution of Plaintiffs'
22 claims, the parties reached the following agreement:
23

1 Defendants agree not to seek remedies available under UPEPA prior to
2 discovery. Plaintiffs agree not to move for or serve discovery unless
3 and until the Court decides that they have pleaded a claim upon which
4 relief can be granted under Rule 12, or the Court converts Defendants'
5 Rule 12 motion to dismiss to a Rule 56 motion for summary judgment.
6 Notwithstanding this agreement, Plaintiffs may argue that discovery is
7 necessary in opposing a motion to dismiss. ("Discovery Agreement")

8
9 6. On February 2, 2023, the Court issued its Order Setting Telephonic
10 Scheduling Conference. Dkt. 8. The Order sets the Scheduling Conference for
11 March 16, 2023, and directs the parties to make Rule 26(a)(1) initial disclosures at
12 or within 14 days of the Rule 26(f) conference, discuss enumerated subjects at the
13 Rule 26(f) conference, and submit a joint report addressing those subjects not less
14 than 14 days before the Scheduling Conference. *Id.* at 2.

15 7. On February 13, 2023, Defendants filed their Rule 12(b)(6) Motion to
16 Dismiss the Complaint. Dkt. 9.

17 8. Pursuant to the Discovery Agreement, the parties wish to stay all
18 discovery, including the Rule 26(f) conference, Rule 26(a)(1) initial disclosures, and
19 joint report, and to lift the stay only if the Court decides Plaintiffs have pleaded a
20 claim upon which relief can be granted under Rule 12 or converts Defendants' Rule
21 12(b)(6) Motion to Dismiss the Complaint to a Rule 56 motion for summary
22 judgment.

23 IT IS SO STIPULATED.

DATED this 16th day of February, 2023.

Attorneys for Plaintiffs

By: s/Jim McGuinness

Aaron Streepy, WSBA 38149
Jim McGuinness, WSBA 23494
STREEPY LAW, PLLC
4218 227th Ave Ct. East
Buckley, WA 98321
Telephone: (253) 528-0278
Fax: (253) 528-0276
aaron@mcguinnessstreepy.com
jim@mcguinnessstreepy.com

Nicholas D. Kovarik, WSBA #35462
PISKEL YAHNE KOVARIK, PLLC
522 W. Riverside Ave., Ste. 700
Spokane, WA 99201
Telephone: (509) 321-5930
Fax: (509) 321-5935
nick@pyklawyers.com

Attorneys for Defendants

By: s/Ambika Kumar

Ambika Kumar, WSBA #38237
Sara A. Fairchild, WSBA #54419
DAVIS WRIGHT TREMAINE LLP
920 Fifth Avenue, Suite 3300
Seattle, WA 98104-1610
Telephone: (206) 622-3150
Fax: (206) 757-7700
ambikakumar@dwt.com
sarafairchild@dwt.com

ORDER

Pursuant to stipulation, IT IS SO ORDERED.

DATED this _____ day of _____, 2023.

THOMAS O. RICE
United States District Judge

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on February 16, 2023, I caused the document to which
3 this certificate is attached to be electronically filed with the Clerk of the Court
4 using the CM/ECF system which will send notification of such filing to the
5 following:

6 Aaron Streepy
7 Jim McGuinness
8 STREEPY LAW, PLLC
9 4218 227th Ave Ct. East
10 Buckley, WA 98321
11 aaron@mcguinnessstreepy.com
12 jim@mcguinnessstreepy.com

13 Nicholas D. Kovarik
14 PISKEL YAHNE KOVARIK, PLLC
15 522 W. Riverside Ave., Ste. 700
16 Spokane, WA 99201
17 nick@pyklawyers.com

18 ***Attorneys for Plaintiffs***

19 I declare under penalty of perjury that the foregoing is true and accurate.

20 DATED this 16th day of February, 2023.

21 By: s/ Ambika Kumar

22 Ambika Kumar, WSBA #38237